

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

746



**FROM:** Treasurer & Tax Collector

**SUBMITTAL DATE:**  
May 24, 2011

**SUBJECT:** Approval of purchase of OPEX 7200i and OPEX 7200t Scanners and Extraction Desks

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the purchase of two (2) OPEX 7200i scanners and extraction desks, and one (1) OPEX 7200t scanner as a sole source without securing competitive bids for the Treasurer-Tax Collector.
2. Authorize the Chairman to sign the maintenance agreement for the first year and authorize the Purchasing Agent to renew the maintenance agreement for two years, renewable in one-year increments.

**BACKGROUND:** The Treasurer-Tax Collector bills over 1.2 million tax bills worth more than 3 billion dollars annually with most containing two installments, translating to over 1.6 million items scanned through the remittance processing scanners. In addition, during the April and December collection cycles we utilize a lockbox vendor to process approximately 705,229 items at an annual cost of up to \$150,000.

(Continued on page 2)

FORWARDED BY COUNTY COUNSEL  
 BY: NEAL R. KIPNIS  
 DATE: 5/26/11  
 Departmental Concurrence

Purchasing: Mark Seller, Assistant Director

*[Signature]*  
**Don Kent**  
 Treasurer & Tax Collector

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 255,855	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	FY 11/12

<b>SOURCE OF FUNDS:</b> Treasurer-Tax Collector Budget	<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
	<b>Requires 4/5 Vote</b>	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:** **APPROVE**

BY: *[Signature]*  
**Karen L. Johnson**

**County Executive Office Signature**

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Buster, seconded by Supervisor Ashley and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley  
 Nays: None  
 Absent: None  
 Date: May 24, 2011  
 xc: Treasurer, Purchasing

Kecia Harper-Ihem  
 Clerk of the Board  
 By: *[Signature]*  
 Deputy

**Prev. Agn. Ref.:** 04/05/05 3.40 | **District:** All | **Agenda Number:** 05/23/06 3.44

**3.53**

BOARD OF SUPERVISORS

Form 11: Approval of purchase of OPEX 7200i and OPEX 7200t Scanners and Extraction Desks  
May 24, 2011

Page 2

BACKGROUND continued:

The Treasurer-Tax Collector purchased the OPEX AS3600i Model 51 Scanner and Extraction Desk in 2005, and the OPEX AS3690i scanner and Extraction Desk in 2006. Since the time we purchased these scanners the hardware and software has advanced, and one of the scanners is incompatible with the new software, making it prone to outages, causing delays in processing tax payments.

Some of the key benefits of the new AS7200 model series include:

- A substantial increase (fifty percent) in the speed of processing tax payments, reducing the amount of time to deposit funds resulting in improved cash flow
- Allowing more payments to be processed in house, reducing our costs to the lockbox vendor by approximately \$30,000 the first year, with the goal of eliminating the lockbox vendor when the new property tax system is operational
- Built in Kofax VRS technology for full-page document scanning and in-line barcode recognition, document classification and optical character recognition (OCR) which will meet the imaging needs for the new Property Tax System

The AS7200i has an integrated mail extraction desk, which in a single step will open, extract and process property tax payments. The AS7200t does not include the mail extraction desk and will be beneficial to process payments requiring special handling and those received over the counter.

Our research indicates there are no other companies that provide this type of equipment with an interface to our existing remittance processing system. In addition, OPEX is the only interface supported by our current remittance processing software vendor. It would not be economically feasible to change the remittance processing system or software at this time. OPEX is giving us a trade-in allowance on the old machines as outlined below.

The cost for the OPEX AS7200i Scanners and Rapid Extraction desks is as follows:

Equipment	\$214,510.15
Sales Tax	\$ 18,769.64
Trade-In Allowance	(\$ 8,000.00)
Total	\$225,279.79

Annual Maintenance (to commence 90 days after delivery) \$ 30,575.00

PRICE REASONABLENESS OPEX has provided discounted pricing under a CMAS negotiated rate, which favors State and Local Government agencies over commercial customers, including no freight charges and therefore deemed as fair and reasonable.

Date: May 10, 2011

From: Don Kent Department/Agency: Treasurer-Tax Collector

To: Board of Supervisors/Purchasing Agent

Via: Purchasing Agent


Subject: Sole Source Procurement; Request for approval to purchase two (2) OPEX AS 7200i scanners and mail extraction desks and one (1) AS7200t scanner

The below information is provided in support of my Department requesting approval for a sole source. Outside of a duly declared emergency, the time to develop a statement of work or specifications is not in itself justification for sole source.

1. **Supply/Service being requested:** The purchase of two (2) OPEX 7200i scanners and extraction desks, and one (1) OPEX 7200t scanner
2. **Supplier being requested:** OPEX
3. **Alternative suppliers that can or might be able to provide supply/service:** One vendor was found, Agissar Corporation, to have a model similar to our current OPEX model AS3690 which is 33% slower in scanning speed than the AS7200. In addition, our current remittance processing software vendor does not work in partnership with any other vendors for this type of equipment and therefore we would not be able to interface with our existing remittance processing software. OPEX does have some authorized resellers but they are required to only sell the OPEX equipment in conjunction with their software and can only sell parts of the equipment. For instance they may be able to sell the scanner but we would have to purchase the stand for it directly through OPEX. Our remittance process software was purchased in 2001 through a competitive bid process for \$317,000. It was upgraded in 2005 to add the OPEX interface for \$62,915. The annual cost for maintenance is \$57,708.00. It is not economically feasible for us to replace our remittance processing software at this time.
4. **Extent of market search conducted:** Treasurer-Tax Collector personnel conducted an Internet search for integrated mail extraction and scanning equipment providers and found no other providers of equipment of this caliber. Verified with our current software vendor that they do not interface to any other vendors with this specific type of equipment.
5. **Unique features of the supply/service being requested from this supplier, which no alternative supplier can provide:** The OPEX AS7200i Scanner and Rapid Extraction Desk is an integrated mail extraction desk and high-speed scanner, which will be used to extract, image and interface to our existing remittance processing software for processing of property tax payments. The AS7200t scanner does not include the mail extraction desk and will be beneficial to process payments requiring special handling and those received over the counter. OPEX AS7200i enables the processing of tax payments in one-step. OPEX has worked in partnership with our


current remittance processing software provider to develop an interface to the equipment. Built in Kofax VRS technology for full page document scanning at 120ppm, in-line barcode recognition and optical character recognition.

- 6. Reasons why my department requires these unique features and what benefit will accrue to the county:** The AS7200i Scanner and Rapid Extraction desk has the ability to open, extract and image the remittance in one-step. The images are then electronically transferred to the remittance processing software through an interface, thereby eliminating the need for additional staff to hand sort the transactions. With a 50% increase in scanning speed from the AS3600 model, this will enable us to streamline the processing of 1.6 million items annually thereby increasing production and improving cash flow by reducing the amount of time required to deposit funds. In addition, it will enable us to process more payments in house thereby reducing our costs to the lockbox vendor. Another benefit is the built in Kofax VRS technology for full page document scanning enabling us to utilize the equipment for document imaging needs with the new property tax system
- 7. Price Reasonableness:** OPEX has provided discounted pricing under a CMAS negotiated rate along with no freight charges, which favors State and Local Government agencies over commercial customers, and is therefore deemed as fair and reasonable. In addition, they have given a trade-in discount of \$8000 for the old equipment. Annual maintenance at a cost of \$30,575.00 per year.
- 8. Does moving forward on this product or service further obligate the county to future similar contractual arrangements or any ongoing costs affiliated with this sole source? (Maintenance, support, or upgrades, if so, please explain).** No.
- 9. Period of Performance:** A period of performance of up to three years, renewable in one year increments and not to exceed 5% increase per year.

  
\_\_\_\_\_  
Department Head Signature 5-12-11  
Date

Purchasing Department Comments:

Approve       Approve with Condition/s       Disapprove

  
\_\_\_\_\_  
Purchasing Agent 5-12-11  
Date

**SERVICE AGREEMENT**

for

**MASTER MAINTENANCE AGREEMENT  
(FOR OPEX AS7200)**

between

**COUNTY OF RIVERSIDE**

and

**OPEX CORPORATION**



Sole Source Dated: 05-12-2011  
BOS Agenda Date: 05-24-2011

MAY 24 2011 3.53

**MASTER MAINTENANCE AGREEMENT ("Agreement")**  
By and between OPEX CORPORATION ("CONTRACTOR") and  
County of Riverside ("COUNTY")

Following the Termination of the Equipment Warranty Period / 2011 ("Effective Date")

This Agreement, made and entered into this 24th day of May, 2011, by and between (OPEX Corporation, located at 305 Commerce Drive, Moorestown, NJ 08057-4234), (herein referred to as "CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY"). The parties agree as follows:

**1. BASIC TERMS.**

**1.1 *Equipment Covered.*** The machines specifically identified by serial number on Exhibit "A" shall be covered by this Agreement (collectively "Equipment"). CONTRACTOR shall furnish "Maintenance Service" (as defined in Paragraph 2.1 below) on Equipment at COUNTY's various Equipment "Sites" (as defined in Paragraph 2.2 below). Upon mutual agreement between the parties, and pursuant to the terms herein, Equipment may be added or deleted from the Exhibit "A" from time to time. All Maintenance Service shall be provided in consideration for the payment of CONTRACTOR's maintenance charges set forth herein, plus all sales and use taxes and such other governmental charges as may be imposed on the provision of goods and services hereunder. Service rates for the first year of this Agreement are detailed within Exhibit "B."

**1.2 *Effective Date; Renewals.*** Maintenance Service shall begin on the Effective Date listed above and shall continue for one year ("Initial Term"). This Agreement may be renewed from year-to-year upon the mutual agreement of both parties ("Renewal Term"). Payment by COUNTY of CONTRACTOR's invoicing for any Renewal Term shall be deemed as mutual agreement by the parties to renew this Agreement. Rates during any Renewal Term are subject to CONTRACTOR's then current pricing. If COUNTY delays renewal of this Agreement until after the anniversary of the Effective Date for the forthcoming year, the parties agree that they will nevertheless continue to observe the anniversary date of the Effective Date for purposes of determining the term of the Agreement and also as the basis for invoicing subsequent renewals. Additionally, in the event COUNTY places a service call but has not formally renewed the Agreement for the forthcoming year, COUNTY agrees that it will compensate CONTRACTOR for any services CONTRACTOR performs at the request of COUNTY, and if COUNTY ultimately decides not to renew the Agreement, such services performed at the request of COUNTY will be charged at a time and materials basis, based on rates currently then in effect. In the event that Equipment is added to this Agreement at times other than on the Effective Date or on any anniversary of the Effective Date, the annual cost of the Maintenance Service for the Equipment added to this Agreement will be prorated to coincide with the date of the next Renewal Effective Date or on any anniversary of the Effective Date.

**1.3 *Price Increase.*** CONTRACTOR agrees that for the Initial Term (on or before December 31, 2011), CONTRACTOR's actual, published Maintenance Service pricing will apply. For the first and the second Renewal Term, the aggregate price increase for all Equipment shall not exceed five percent (5%) per year, based upon the previous year's maintenance prices (assuming similar Equipment quantities and Service Hours). If the aggregate percentage increase based upon CONTRACTOR's published Maintenance Service prices for any renewal year are less than the increases allowed under this Paragraph, then COUNTY shall be charged the published Maintenance Service prices. However, this Paragraph is not applicable to "CONTRACTOR's Holidays" (as defined in Paragraph 3.5). Service provided on "CONTRACTOR's Holidays" will be subject to published rates then in effect. Following the termination of the third Renewal Term, the prices shall be based on CONTRACTOR's then current published rates.

**1.4 *Equipment Not Previously Covered.*** Any machine which COUNTY seeks to add to this Agreement that has not been continuously covered by a maintenance agreement with CONTRACTOR since the expiration of its warranty period, shall be subject to inspection by CONTRACTOR. After such inspection, if CONTRACTOR, in its sole discretion, determines that the machine is not operating in conformity with the "Published Specifications" (as defined in Paragraph 1.5 below), the machine shall be restored to good operating condition at COUNTY's expense, subject to CONTRACTOR's then current rates, as a condition of adding the machine to Exhibit "A."

**1.5 *Routine Cleaning.*** The day-to-day routine cleaning and minor adjustments on the Equipment, as described in both CONTRACTOR's equipment operating manuals and other supplementary material ("Published Specifications") which may be furnished by CONTRACTOR to COUNTY from time to time, shall

be performed by COUNTY. CONTRACTOR will notify COUNTY in writing if the COUNTY fails to perform routine cleaning on the Equipment.

**2. MAINTENANCE SERVICE.**

**2.1 Maintenance Service, Generally.** Maintenance Service is defined as all labor and replacement parts necessitated by normal wear and tear from operation of the Equipment in accordance with CONTRACTOR's Published Specifications, in order to maintain the Equipment in good operating condition ("Maintenance Service").

**2.2 Definition of COUNTY's Equipment Site(s).** "Site" is defined as the one (1) floor within COUNTY's premises specified in Exhibit "A." Equipment moved to a different Site is subject to the limitations described in Paragraph 8.1(j) below.

**2.3 Service Calls.** Preventive Maintenance Service calls are those periodic calls initiated by CONTRACTOR to keep the Equipment operating in accordance with CONTRACTOR's Published Specifications ("PM's"). Demand Maintenance Service calls are those calls initiated by COUNTY to request that CONTRACTOR repair Equipment that is malfunctioning or not operating in accordance with the Published Specifications ("Demand Calls"). (A PM may be performed in conjunction with a Demand Call placed by COUNTY, depending upon, and at the discretion of, CONTRACTOR's service technician.) The minimum number of PM's and maximum number of Demand Calls for each piece of Equipment are outlined in the chart below.

Machine Type	Models 72	AS7200i
Demand	unltd	unltd
Preventive Maintenance	12	6

**2.4 Field Service Reports.** CONTRACTOR shall furnish a summary of the Maintenance Service provided to the COUNTY upon completion of each Maintenance Service call ("Field Service Report"). The Field Service Report shall contain the following information: (1) date and time of arrival; (2) specific identification of Equipment serviced; (3) time of Maintenance Service; (4) description of the malfunction (if any); and (5) list of parts replaced.

**2.5 Response Times.** For all Equipment, CONTRACTOR shall exert all reasonable efforts to respond to Demand Call requests within four (4) hours after such call is received by CONTRACTOR, during the designated Coverage Hours. Following CONTRACTOR's receipt of COUNTY's request for a Demand Call, Contractor's personnel shall contact the COUNTY to provide his or her estimated time of arrival at the site

**2.6 Parts.** Only new standard parts or parts of equal quality shall be used in providing Maintenance Service. Title to all replacement parts provided during the course of providing Maintenance Service pursuant to this Agreement will pass to COUNTY upon installation.

**3. COMPENSATION**

**3.1** The COUNTY shall pay the CONTRACTOR for services performed, products provided and expenses incurred in accordance with the terms of Exhibit B, Service Pricing. For the Initial Term of this Agreement, maximum payments by COUNTY to CONTRACTOR shall not exceed \$30,375.00 annually including all expenses. The COUNTY is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products. Unless otherwise specifically stated in Exhibit B, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

**3.2** No price increases will be permitted during the first year of this Agreement. All price decreases (for example, if CONTRACTOR offers lower prices to another governmental entity) will automatically be extended to the COUNTY. The COUNTY requires written proof satisfactory to COUNTY of cost increases prior to any approved price adjustment. After the first year of the award, a minimum of 30-days advance notice in writing is required to be considered and approved by COUNTY. No retroactive price adjustments will be considered. Any price increases must be stated in a written amendment to this Agreement.

**3.3** CONTRACTOR shall be paid only in accordance with an invoice submitted to COUNTY by CONTRACTOR within fifteen (15) days from the last day of each calendar month, and COUNTY shall pay the invoice within thirty (30) working days from the date of receipt of the invoice. Payment shall be made to CONTRACTOR only after services have been rendered or delivery of materials or products, and acceptance has been made by COUNTY. Prepare invoices in duplicate. For this Agreement, send the original and duplicate copies of invoices to:

4080 Lemon Street  
Tax Collectors Office 4<sup>th</sup> FL  
Riverside, CA 92502

- a) Each invoice shall contain a minimum of the following information: invoice number and date; remittance address; bill-to and ship-to addresses of ordering department/division; Agreement number (TTARC-93952-001-05/12 ); quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, and an invoice total.
- b) Invoices shall be rendered monthly in arrears.
- c) In accordance with California Government Code Section 926.10, COUNTY is not allowed to pay excess interest and late charges.

**3.4** The COUNTY obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONTRACTOR in writing; and this Agreement shall be deemed terminated, have no further force, and effect.

#### **4. GENERAL TERMS.**

**4.1 Maintenance Service Coverage Hours, Generally.** All Equipment located at a particular Site must be maintained during the same Maintenance Service schedule ("Coverage Hours"). Coverage Hours shall be governed by the terms and conditions set forth below.

**4.1.1 Coverage Hours for a Site.** Coverage Hours shall be 7:00 am to 3:00 pm (Site local time), Monday through Friday, excluding CONTRACTOR Holidays.

**4.2 Altering Coverage Hours.** COUNTY shall be able to increase, decrease or shift, the Coverage Hours for a Site. However, in no event, may the Coverage Hours be decreased to less than forty (40) hours per week.

**4.2.1 Increasing Coverage Hours.** Upon thirty (30) days written notice, COUNTY may increase the Coverage Hours for a particular Site.

**4.2.2 Decreasing Coverage Hours.** Upon sixty (30) days written notice, COUNTY may decrease the Coverage Hours for a particular Site. This 30-day notice period applies to any decrease in Maintenance Service, including removing Equipment or Equipment options, reducing the number of covered shifts, or total termination of Maintenance Service for a Site. The notice period shall begin to run from the date on which CONTRACTOR receives the written notification. Upon receipt of the 30-day notice, COUNTY will be provided a credit for any unused Maintenance Service towards future Equipment or Maintenance Service, calculated from the date of the expiration of the thirty (30) day period.

**4.2.3 Shifting Coverage Hours.** Upon thirty (30) days written notice, the COUNTY may shift the Coverage Hours for a particular Site. Any shift in the Coverage Hours shall be agreed upon by both parties and the current rates shall be disclosed at time of request. The County is not obligated to obtain any amount of Shifting Coverage Hours from the CONTRACTOR.

**4.3 CONTRACTOR Holidays.** CONTRACTOR observes the following holidays: New Year's Day; President's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving; and Christmas Day. Upon thirty (30) days written notice, the COUNTY may obtain Maintenance Service coverage on CONTRACTOR Holidays. CONTRACTOR must disclose in writing of personnel availability and coverage hour rate if different from regular coverage hours (section 4.1.1).



**4.5 Invoicing.** CONTRACTOR shall invoice COUNTY annually in advance for the Standard Maintenance Charge. Any additional service charges shall be invoiced quarterly in arrears. Terms of payment are net thirty (30) days from date the invoice is issued. Late payments shall bear interest at the lesser of (i) 2% per month or (ii) the highest permissible rate by law, payable monthly.

**4.6** CONTRACTOR shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY which shall not be unreasonably withheld. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

**4.7** Any waiver by COUNTY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Agreement. Failure on the part of COUNTY to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms or preventing COUNTY from enforcement of the terms of this Agreement.

**4.8** In the event the CONTRACTOR receives payment under this Agreement, which is later disallowed by COUNTY for nonconformance with the terms of the Agreement, the CONTRACTOR shall promptly refund the disallowed amount to the COUNTY on request; or at its option, the COUNTY may offset the amount disallowed from any payment due to the CONTRACTOR.

**4.9** CONTRACTOR shall only provide Maintenance Services as provided in this Agreement and not provide partial Maintenance Service unless specifically stated in the Agreement.

**4.10** CONTRACTOR shall not provide any Maintenance Service subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by a third party. The CONTRACTOR warrants that it has good title to all materials or products used by CONTRACTOR or provided to COUNTY pursuant to this Agreement, free from all liens, claims or encumbrances.

**4.11** Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials or services from other sources, when deemed by the COUNTY to be in its best interest. The COUNTY reserves the right to purchase more or less, than the quantities specified in this Agreement.

**4.12** The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance under this Agreement, including, if stated in the Agreement, providing the CONTRACTOR with reasonable facilities and timely access to COUNTY data, information and personnel.

**4.13** CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation as determined by a court of competent jurisdiction.

**4.14** CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances, statutes or regulations, which apply to performance under this Agreement.

**4.15** CONTRACTOR shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA)

**5. PROPRIETARY TECHNOLOGY AND DIAGNOSTICS; CONFIDENTIALITY.**

**5.1 Technology.** CONTRACTOR holds intellectual property rights in the Equipment, which includes the Equipment's computer operating system, software components and mechanical components (collectively "Technology"). No licenses, either express or implied, under any patents are granted by CONTRACTOR to COUNTY hereunder, except as expressly stated herein. COUNTY agrees that it shall not copy, remove, use (except for operation of the Equipment in accordance with the Published Specifications), or disclose Technology to any third party.

**5.2 Diagnostics.** In providing Maintenance Service, CONTRACTOR utilizes certain software diagnostics ("Diagnostics"). CONTRACTOR holds intellectual property rights in the Diagnostics, and the

Diagnostics are for CONTRACTOR's exclusive use. Except with the express written consent of CONTRACTOR, COUNTY shall not use, copy, remove, or alter the Diagnostics. It is understood and agreed by COUNTY that upon termination of this Agreement, COUNTY shall either: (i) Return the Diagnostics to CONTRACTOR at CONTRACTOR's expense; or (ii) Purchase, according to CONTRACTOR's then current rates, a non-exclusive, non-transferable and personal limited license to use the Diagnostics.

**5.3 Confidential Information.** During the term of this Agreement, either party may have access to, or be given, certain technical information or data, COUNTY information or data, manuals, drawings, sketches, models, samples, tools, or the like, of the other Party, which are of a confidential and/or proprietary nature (collectively "Information"). All Information furnished to the receiving party, whether written, oral or otherwise, shall remain the sole and exclusive property of the disclosing party. Upon request, all Information shall be returned to the disclosing party. Unless such Information: (i) was previously known to the receiving party free of any obligation to keep it confidential; (ii) is subsequently made public by the disclosing party or by a third party, other than by breach of agreement; or (iii) is required to be disclosed to any governmental agency or court of competent jurisdiction by written order or decree (in which case the disclosing party shall be given prompt notice by the receiving party of such order or decree, and shall be given an opportunity to contest or direct such disclosure); the Information shall be kept confidential by the Receiving Party and shall be used solely for the purposes of fulfilling the terms of this Agreement.

**6. WARRANTY; WARRANTY LIMITATIONS.**

CONTRACTOR warrants that all work required to be performed hereunder shall conform to the descriptions contained in this Agreement and will be performed in a professional manner according to generally accepted industry standards. THE FOREGOING EXPRESS WARRANTY IS IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE AND THERE ARE NO WARRANTIES WHICH ARE NOT CONTAINED IN THIS AGREEMENT.

**7. INFRINGEMENT AND GENERAL INDEMNIFICATION.**

**7.1 Patent, Copyright and Trademark Infringement Indemnification.** CONTRACTOR will (i) indemnify, hold harmless and defend COUNTY, at CONTRACTOR's expense, from and against any claim brought against COUNTY alleging that any portion of the Equipment infringes a European Union, Canadian or United States patent, copyright, trademark, or other intellectual property right, of any third party; and (ii) hold COUNTY harmless from and against all costs and damages finally awarded, provided that CONTRACTOR is given prompt written notice of such claim and is given information, reasonable assistance, and sole authority to defend or settle the claim.

**7.1.1 Infringement Defense.** In the defense or settlement of a claim pursuant to Paragraph 6.1 above, CONTRACTOR may: (i) obtain for COUNTY the right to continue using the Equipment; (ii) replace or modify the Equipment so that it becomes non-infringing; or (iii) if remedies (i) and (ii) are not reasonably available, grant COUNTY a depreciated refund pro-rata based upon a sixty (60) month life, measured from the original installation date of the Equipment.

**7.1.2. Infringement Indemnification Limitations.** CONTRACTOR shall not have any liability if the alleged infringement is based upon the use or sale of the Equipment in combination with other products or devices not furnished or approved by CONTRACTOR. CONTRACTOR DISCLAIMS ALL OTHER LIABILITY FOR PATENT, COPYRIGHT OR TRADEMARK INFRINGEMENT, INCLUDING ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, AND THE RIGHTS STATED HEREIN ARE THE COUNTY'S SOLE AND EXCLUSIVE REMEDY.

**7.2 Indemnification.** CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives from any liability, claim, damage or action whatsoever, based or asserted upon any negligent act or omission of CONTRACTOR, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death. CONTRACTOR shall defend, at its sole cost and expense, including but not limited to attorney fees, cost of investigation, defense and settlements or awards, the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives in any such action or claim. With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at its sole cost, have the right to

use counsel of its own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR's indemnification of COUNTY. CONTRACTOR's obligations hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal (or similar document) relieving the COUNTY from any liability for the action or claim involved. The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONTRACTOR's obligations to indemnify and hold harmless the COUNTY. In no event shall either party be liable to the other, whether in an action in negligence, contract or tort or based on a warranty or otherwise, for loss of profits, revenue, or loss or inaccuracy of data, or any indirect, incidental, punitive, special or consequential damages incurred by the other party or any third party, even if the party has been advised of the possibility of such damages. Additionally, the COUNTY and CONTRACTOR agree that CONTRACTOR's indemnity obligation hereunder will be reduced to the extent by which any claim, liability, loss, damage, or expense results from the negligence or misconduct of any directors, employee servant, officials, and/or agent of the COUNTY, or the employees, servants, officials agents or subcontractors of another vendor of the COUNTY.

7.2.1 In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the CONTRACTOR from indemnifying the COUNTY to the fullest extent allowed by law.

## **8. LIMITATIONS.**

**8.1 Maintenance Service Limitations.** Notwithstanding anything herein to the contrary, CONTRACTOR shall have no obligation hereunder to provide Maintenance Service to Equipment which has deteriorated to such an extent that it cannot, in the reasonable discretion of CONTRACTOR, be maintained and needs to be replaced. CONTRACTOR shall provide written notice of any such deterioration. CONTRACTOR's obligations to provide Maintenance Service shall also terminate if COUNTY:

(a) fails to provide CONTRACTOR with sufficient access to the Equipment, subject to COUNTY's reasonable Site policies and procedures;

(b) negligently stores, handles operates or alters the Equipment, or uses the Equipment for purposes other than those set forth in the Published Specifications;

(c) continues to fail to provide routine cleaning after being provided notice by CONTRACTOR pursuant to Paragraph 1.3 above;

(d) fails to continually provide a suitable environment with all facilities and power as prescribed in the Published Specifications;

(e) uses or operates the Equipment beyond its intended design parameters;

(f) damages the Equipment through its use in conjunction with machinery or software not covered by this Agreement;

(g) performs work, or allows a third party to work, on the Equipment, which is not authorized by CONTRACTOR;

(h) alters or modifies in any way, the safety mechanisms, without the written consent of CONTRACTOR;

(i) operates the Equipment with envelopes or enclosures other than those specified in the Published Specifications; or

(j) COUNTY's relocating Equipment to a Site other than that defined in this Agreement; provided, however, that should CONTRACTOR and COUNTY agree to continue Maintenance Service on Equipment moved to another Site, COUNTY's Equipment shall be subject to inspection by CONTRACTOR, at CONTRACTOR's published rates and terms then in effect for such service, prior to CONTRACTOR resuming Maintenance Service on COUNTY's Equipment.

## **9. GENERAL PROVISIONS.**

**9.1 Governing Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any claim arising out of or in connection with this Agreement shall be brought only in the federal or state court located in the State of California.

**9.2 Assignment.** Neither party may assign this Agreement unless mutually agreed upon by the parties, such agreement not to be unreasonably withheld by either party. However, in no event shall this Agreement be assigned to a competitor of CONTRACTOR.

**9.4 Rights Cumulative; Non-Waiver.** All rights and remedies conferred under this Agreement or by any other instrument or law shall be cumulative and may be exercised singularly or concurrently. Failure or delay by either party to enforce any contract term herein shall not be deemed a waiver of future enforcement of that or any other term.

**9.5 Severability.** In the event any one or more of the provisions contained herein shall for any reason be held to be unenforceable in any respect under the law of any state or of the United States of America, such unenforceability shall not affect any other provision of this Agreement, but this Agreement shall then be construed as if such unenforceable provision or provisions had not been contained herein.

**9.6 Force Majeure.** Neither CONTRACTOR nor COUNTY shall be held responsible for any delay or failure in performance of this Agreement caused by fires, strikes, embargoes, government requirements, acts of God or public enemy or other similar causes beyond their reasonable control.

#### **10. Alteration or Changes to the Agreement**

**10.1** The Board of Supervisors and the COUNTY Purchasing Agent and/or his designee are the only authorized COUNTY representatives who may at any time, by written order, make alterations to this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified by written amendment accordingly.

**10.2** Any claim by the CONTRACTOR for additional payment related to this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work, which results in additional and unanticipated cost to the CONTRACTOR. If the COUNTY Purchasing Agent decides that the facts provide sufficient justification, he may authorize additional payment to the CONTRACTOR pursuant to the claim. Nothing in this section shall excuse the CONTRACTOR from proceeding with performance of the Agreement even if there has been a change.

#### **11. Termination**

**11.1.** COUNTY may terminate this Agreement without cause upon 30 calendar days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

**11.2** COUNTY may, upon ten calendar (10) days written notice, terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress so as to endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

**11.3** After receipt of the notice of termination, CONTRACTOR shall:

- (a) Stop all work under this Agreement on the date specified in the notice of termination; and
- (b) Transfer to COUNTY and deliver in the manner as directed by COUNTY any materials, reports or other products, which, if the Agreement had been completed or continued, would have been required to be furnished to COUNTY.

**11.4** After termination, COUNTY shall make payment only for CONTRACTOR's performance up to the date of termination in accordance with this Agreement and at the rates set forth in Exhibit B.

**11.5** CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this

Agreement. In such event, CONTRACTOR shall not be entitled to any further compensation under this Agreement.

11.6 The rights and remedies of COUNTY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

**12. Ownership/Use of Contract Materials**

The CONTRACTOR agrees that all materials, reports or products in any form, including electronic, created by CONTRACTOR which includes COUNTY'S CONFIDENTIAL INFORMATION for which CONTRACTOR has been compensated by COUNTY pursuant to this Agreement shall be the sole property of the COUNTY; and may be used by the COUNTY for any purpose COUNTY deems to be appropriate, including, but not limit to, duplication and/or distribution within the COUNTY or to third parties. CONTRACTOR agrees not to release or circulate in whole or part such materials, reports or products without prior written authorization of the COUNTY.

**13. Conduct of Contractor**

13.1 The CONTRACTOR covenants that it shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

13.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.

13.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.

**14. Inspection of Maintenance Service; Quality Control/Assurance**

14.1 All performance (which includes services, workmanship, materials, supplies and equipment furnished or utilized in the performance of this Agreement) shall be subject to inspection and test by the COUNTY or other regulatory agencies at all times. In the event the COUNTY is requesting an inspection of CONTRACTOR'S facility located in Moorestown, NJ, the COUNTY shall provide at least fourteen (14) calendar day's advance written notice to CONTRACTOR. The CONTRACTOR shall provide adequate cooperation to any inspector or other COUNTY representative to permit him/her to determine the CONTRACTOR's conformity with the terms of this Agreement. If the Maintenance Service provided by CONTRACTOR are not in conformance with the terms of this Agreement, the COUNTY shall have the right to require the CONTRACTOR to perform the Maintenance Service in conformance with the terms of the Agreement at no additional cost to the COUNTY. When the Maintenance Service to be provided are of such nature that the difference cannot be corrected, the COUNTY shall have the right to: (1) require the CONTRACTOR immediately to take all necessary steps to ensure future performance in conformity with the terms of the Agreement; and/or (2) reduce the Agreement price to reflect the reduced value of the Maintenance Service provided. If Contractor fails perform Maintenance Service in accordance to this Agreement after COUNTY has provided at least ten (10) calendar days' advance written notice to CONTRACTOR. The COUNTY may also terminate this Agreement for default and charge to CONTRACTOR any costs incurred by the COUNTY because of the CONTRACTOR's failure to perform.

14.2 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess or evaluate CONTRACTOR's performance under this Agreement at any time upon reasonable notice to CONTRACTOR.

**15. Independent Contractor**

The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that

CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

**16. Subcontract for Work or Services**

No contract shall be made by the CONTRACTOR with any other party for furnishing any of the work or services under this Agreement without the prior written approval of the COUNTY; but this provision shall not require the approval of contracts of employment between the CONTRACTOR and personnel assigned under this Agreement, or for parties named in the proposal and agreed to under this Agreement.

**17. Disputes**

17.1 The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. Any dispute relating to this Agreement, which is not resolved by the parties, shall be decided by the COUNTY's Purchasing Department's Compliance Contract Officer who shall furnish the decision in writing. The decision of the COUNTY's Compliance Contract Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith. Both the COUNTY and the CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute.

17.2 Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

**18. Licensing and Permits**

CONTRACTOR shall comply with all State or other licensing requirements, including but not limited to the provisions of Chapter 9 of Division 3 of the Business and Professions Code. All licensing requirements shall be met at the time proposals are submitted to the COUNTY. CONTRACTOR warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of Riverside and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement.

**19. Use By Other Political Entities**

The CONTRACTOR agrees to extend the same pricing based on similar Equipment in liked quantities, terms and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit entity in Riverside County. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR; and COUNTY shall in no way be responsible to CONTRACTOR for other entities' purchases.

**20. Non-Discrimination**

CONTRACTOR shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. §1210 et seq.) and all other applicable laws or regulations.

**21. Records and Documents**

CONTRACTOR shall make available, upon written request by any duly authorized Federal, State or COUNTY agency, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the CONTRACTOR's costs related to this Agreement. All such books, documents and records shall be maintained by CONTRACTOR for at least five years following termination of this Agreement and be available for audit by the COUNTY. CONTRACTOR shall provide to the COUNTY reports and information related to this Agreement as requested by COUNTY.

**22. Confidentiality**

**22.1** The CONTRACTOR shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; COUNTY information or data which is not subject to public disclosure; COUNTY operational procedures; and knowledge of selection of contractors, subcontractors or suppliers in advance of official announcement.

**22.2** The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall promptly transmit to the COUNTY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the COUNTY, any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

**23. Administration/Contract Liaison**

The COUNTY Purchasing Agent, or designee, shall administer this Agreement on behalf of the COUNTY. The Purchasing Department is to serve as the liaison with CONTRACTOR in connection with this Agreement.

**24. Notices**

All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted two days after their deposit in the United States mail, postage prepaid:

**COUNTY OF RIVERSIDE**

4080 Lemon Street  
Tax Collectors Office 4<sup>th</sup> FL  
Riverside, CA 92502

**CONTRACTOR**

OPEX Corporation  
305 Commerce Drive  
Moorestown, NJ 08057-4234  
Attn: Legal Department

**25. EDD Reporting Requirements**

In order to comply with child support enforcement requirements of the State of California, the COUNTY may be required to submit a Report of Independent Contractor(s) form **DE 542** to the Employment Development Department. The CONTRACTOR agrees to furnish the required data and certifications to the COUNTY within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of the CONTRACTOR to timely submit the data and/or certificates required may result in the contract being awarded to another contractor. In the event a contract has been issued, failure of the CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If CONTRACTOR has any questions concerning this reporting requirement, please call (916) 657-0529. CONTRACTOR should also contact its local Employment Tax COUNTY Service Office listed in the telephone directory in the State Government section under "Employment Development Department" or access their Internet site at [www.edd.ca.gov](http://www.edd.ca.gov).

**26. Insurance**

Without limiting or diminishing the CONTRACTOR's obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this Agreement:

**26.1 Workers' Compensation**

If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than **\$1,000,000** per person per accident. The policy shall be endorsed to waive subrogation in favor of the County of Riverside, and, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

**26.2 Commercial General Liability**

Sole Source Dated: 05-12-2011  
BOS Agenda Date: 05-24-2011

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury covering claims which may arise from or out of CONTRACTOR'S performance of its obligations hereunder. Policy shall name all Agencies, Districts, Special Districts, and Departments of the COUNTY of Riverside, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds. Policy's limit of liability shall not be less than **\$1,000,000** per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

### 26.3 Vehicle Liability

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than **\$1,000,000** per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name all Agencies, Districts, Special Districts, and Departments of the COUNTY of Riverside, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

### 26.4 General Insurance Provisions - All lines

a) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the COUNTY Risk Manager. If the COUNTY's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

b) The CONTRACTOR must declare its insurance self-insured retentions. If such self-insured retentions exceed \$500,000 per occurrence such retentions shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self insured retention unacceptable to the COUNTY, and at the election of the County's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

c) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the COUNTY of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, or 2) if requested to do so orally or in writing by the COUNTY Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the COUNTY of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the COUNTY of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. **CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements or policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.**

d) It is understood and agreed to by the parties hereto and the insurance company(s), that the Certificate(s) of Insurance and policies shall so covenant and shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

e) The COUNTY'S Reserved Rights--Insurance. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work (such as the use of aircraft or watercraft) the COUNTY reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage's currently required herein, if, in the COUNTY Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has become inadequate.

f) CONTRACTOR shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.



g) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.

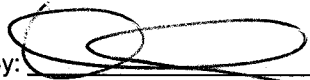
**27. Order of Precedence.** Unless otherwise provided herein or agreed to in a signed writing, documents will apply in the following descending order of precedence: (i) main body of this Agreement; (ii) Exhibits "A" and "B;" and (ii) all other transaction documents.

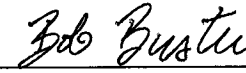
**28. Entire Agreement.** This Agreement, the Exhibits and documents incorporated herein, are the final, full and exclusive expression of the understandings of the parties and supersedes all prior agreements, understandings, writings, proposals, representations and communications, oral and written, of either party.

By signing below, the Parties agree to be bound by the terms of this Agreement and any attached Exhibits.


**OPEX CORPORATION ("CONTRACTOR")**

**County of Riverside – Tax ("COUNTY")**

By:   
Winnie W. Chow  
Title: Asst. Dir., Corp. & Legal Affairs  
Date: 5/13/2011

By:   
BOB BUSTER  
Title: CHAIRMAN, BOARD OF SUPERVISORS  
Date: MAY 24 2011

FOR APPROVED COUNTY COUNSEL  
BY:  5/16/11  
NEAL R. KIPNIS DATE

ATTEST:  
KECIA HARPER-JHEM, Clerk  
By:   
DEPUTY


**EXHIBIT "A" EQUIPMENT SCHEDULE**


- 1) COUNTY's Name: **County of Riverside – Tax**
- 2) The Equipment covered by this Agreement is located at the following Site(s):
  - 4080 Lemon Street
  - Tax Collectors Office 4<sup>th</sup> FL
  - Riverside, CA 92502
- 3) The Equipment covered by this Agreement includes the machines described below:
  - (a) Machine Description: AS7200t  
Serial Number(s): TBD
  - (b) Machine Description: AS7200i  
Serial Number(s): TBD, TBD
  - (c) Machine Description: Model 72  
Serial Number(s): TBD, TBD

By signing below, the Parties agree to be bound by the terms of the Agreement and this Exhibit "A."

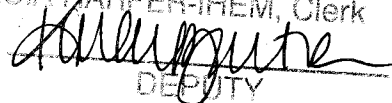
**OPEX CORPORATION ("CONTRACTOR")**

**County of Riverside ("COUNTY")**

By:   
 Winnie W. Chow  
 Title: Asst. Dir., Corp. & Legal Affairs  
 Date: 5/13/2011

By:   
**BOB BUSTER**  
 Title: **CHAIRMAN, BOARD OF SUPERVISORS**  
 Date: MAY 24 2011

FOR APPROVED COUNTY COUNSEL  
 BY:   
 NEAL R. KIPNIS DATE

ATTEST:  
 KECIA HARPER-IHEM, Clerk  
 By:   
 DEPUTY

**EXHIBIT "B" SERVICE PRICING**

Pricing for the Initial Term of the Agreement is based on the current rates set forth herein, prepaid annually in advance, per shift, per site.

<u>Product Description</u>	<u>Price Each</u>	<u>QTY</u>	<u>Extended Price</u>
Model 72	2,350.00	2	\$ 4,700.00
AS7200i/t	8,025.00	3	\$ 24,075.00
VRS Technology	600.00	3	\$ 1,800.00
Total Service Costs (pre-tax)			<b>\$30,575.00</b>

\*The AS7200i/t includes the annual license fee for the base machine. The current 2011 license fee for the AS7200i/t is \$2,500.00, per unit (the AS7200i/t base machine license fee is included with the maintenance fee of \$8,025.00).

The period of performance is not to exceed an additional two (2) years.

NOTE: THIS AGREEMENT SPECIFICALLY EXCLUDES CONTRACTOR'S NETWORKING SOLUTION PRODUCT AND ANY OPEN SCAN PRODUCT(S). Any Maintenance Service provided by CONTRACTOR to COUNTY on CONTRACTOR's Networking Solution Product will be provided on a time and materials basis only, according to CONTRACTOR's published terms and rates then in effect for such service.